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Federal Communications Commission  
Office of the Secretary  
File No. BPET-900904KF

Subject: \_\_\_\_\_

Dec 6 2 44 PM '91

cause exists for filing the Amendment, that "the amendment does not change . . . the merits of Valley's application." Petition at p. 3.

In so far as the Amendment makes the technical changes noted in VPT's Petition, CTSC does not oppose those modifications and expresses no view whether VPT has meet its burden of demonstrating that good cause exists for allowing it to file the Amendment over a year after the "B" cut-off date -- October 22, 1990.<sup>2/</sup> However, it is well established that an applicant may not use a post "B" cut-off amendment to upgrade its comparative position. See KIST Corp., 99 FCC 2d 173, 196 (Rev. Bd. 1984). CTSC believes that VPT has acknowledged this limitation when it stated that its Amendment does not alter the merits of its application. See Petition at p. 3. Accordingly, the Commission should not accept any part of VPT's Amendment that is relevant to

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<sup>2/</sup> In its Petition VPT characterizes the Amendment as addressing primarily technical matters or correcting inadvertent errors. It should be noted, however, that the amendment of VPT's Articles of Incorporation and of its ByLaws not only allows VPT to add individuals from Bakersfield, as VPT notes in its Petition, but also actually authorizes VPT to file for and operate its proposed station. VPT's original Articles and ByLaws provided that VPT was only authorized to operate a noncommercial educational television station in Fresno, see Attachment to this Partial Opposition, while the amended Articles and ByLaws authorize it to operate facilities in Fresno and Bakersfield. For some reason, VPT failed to note this change in its Petition, perhaps because it raises substantial questions as to whether VPT was legally qualified to operate its proposed Bakersfield station when it filed its application.

its comparative position.<sup>3/</sup> For example, Exhibit A of VPT's proposed amended application contains information regarding VPT's chartered purpose, its relationship to various educational institutions, and its proposal to integrate the operation of its proposed station into VPT's "overall educational objectives." Similarly, Exhibit B contains information regarding the structure and membership of VPT's Board of Directors. The information in these Exhibits may be relevant to VPT's comparative position, and therefore, CTSC opposes grant of VPT's petition to include these Exhibits as part of its application.<sup>4/</sup> However, if the Commission accepts VPT's entire Amendment, it should explicitly preclude VPT from using anything in the Amendment to improve or upgrade its comparative position.<sup>5/</sup>

WHEREFORE, Community Television of Southern California requests that the Commission partially deny, as noted above, the

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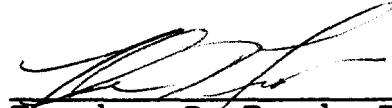
<sup>3/</sup> In the cases cited by VPT, Azalea Corp., 31 FCC 2d 561 (1971) and Anax Broadcasting, 87 FCC 2d 483 (1981), the Commission accepted post "B" cut-off amendments that were intended to cure disqualifying defects. These cases provide no precedent for accepting grossly untimely amendments on a comparative basis. See, Anax Broadcasting, supra at 488 ("...we do not believe that Bison will derive any comparative advantage from the amendment.")

<sup>4/</sup> CTSC recognizes that, when VPT corrected its status from an educational institution to an educational organization, certain additional data was required. However, Exhibits A and B go well beyond the information called for by the application.

<sup>5/</sup> The Commission might accept certain information contained in the Amendment for Section 1.65 reporting purposes.

Petition for Leave to Amend filed by Valley Public Television  
Inc.

Respectfully submitted,



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Dated: December 5, 1991

**A T T A C H M E N T**

ENDORSED  
FILED  
In the Office of the Secretary of State  
of the State of California

FEB 3 1987

MARCH FONG EU, Secretary of State

CERTIFICATE OF AMENDMENT OF ARTICLES  
OF INCORPORATION OF KMTF FOUNDATION

JOANNE SANOIAN hereby certifies:

1. She is the sole incorporator of KMTF FOUNDATION, a California Non-Profit Corporation.
2. This corporation has no members.
3. She adopts the following amendments to the Articles of Incorporation of the corporation:

the coordination of educational, cultural, governmental and other interests to service such facility; and to do all things reasonable, necessary, suitable, proper, convenient, or incidental to the aforesaid purposes.

C) Directors were not named in the Articles of Incorporation, and have not been elected.

The undersigned declares under penalty of perjury under the laws of the State of California that the statements contained in the foregoing Certificate are true and correct, of her own knowledge, and that this Declaration was executed on January 29, 1987, at Fresno, California.

**JOANNE SANOIAN**  
Joanne Sanoian, Incorporator

BY-LAWS OF KMTF CHANNEL 18, INC.

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BY-LAWS  
OF  
KMTF CHANNEL 18, INC.  
A California Non-Profit Corporation

Article I

PURPOSES

This corporation is a non-profit, public benefit corporation and is not organized for the private gain of any person. It is organized under the Non-Profit, Public Benefit Corporation Law for public purposes. The public purposes of this corporation are to develop, finance and operate a non-commercial educational broadcast facility in Fresno, California, for the benefit of an area including, but not limited to, Kings, Madera, Tulare, and Fresno Counties; the coordination of educational, cultural, governmental, and other interests to service such facility; and to do all things reasonable, necessary, suitable, proper, convenient, or incidental to the aforesaid purposes including broadcasting an I.T.V. signal while school is in session, provided the cost thereof is paid for by the education community.

ARTICLE II

OFFICES

Section 2.01. Principal Office. The principal office for the corporation for its transaction of business is 733 "L" Street, Fresno, Fresno County, California.

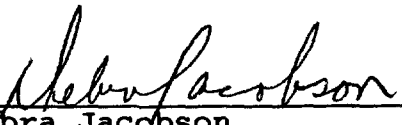
Section 2.02. Change of Address. The Board of Directors is hereby granted full power and authority to change the principal office of the corporation from one location to another in the County of Fresno, California. Any such change shall be noted by the Secretary in these By-Laws, but shall not be considered an

**CERTIFICATE OF SERVICE**

I, Debra Jacobson, a secretary in the law firm of Arent Fox Kintner Plotkin & Kahn, do hereby certify that true copies of the foregoing Partial Opposition of Community Television of Southern California to Valley Public Television's Petition for Leave to Amend were sent this 5th day of December, 1991, by first-class United States mail, postage prepaid, to the following:

Mr. Clay Pendarvis \*  
Chief, Television Branch  
Mass Media Bureau  
Federal Communications Commission  
Room 700  
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Washington, D.C. 20554

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FLETCHER, HEALD & HILDRETH  
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Debra Jacobson

\* Hand Delivered